



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

April 29, 2009

MEMORANDUM

To: Representative Hixson

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2009 AB 159** (LRB-0994/1) **by DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

April 16, 2009

TO: Joseph T. Kreye
Legislative Reference Bureau

FROM: Paul Ziegler
Department of Revenue

SUBJECT: Technical Memorandum on AB 159 Relating to the Charge-Back of Refunded and Rescinded Taxes and Sharing of Certain Collected Taxes

The Department of Revenue (DOR) has the following concern with the bill.

Currently, s. 74.41 deals with refunded or rescinded property tax bills. The procedures under this section address taxes that were repaid to the property owner, or were settled for with the overlying taxation jurisdictions by the taxation district (municipality). In such a situation, a taxation district uses the procedures under this section to recover the repaid or rescinded taxes from its overlying taxation districts.

Omitted property taxes are, in a way, the opposite of refunded or rescinded property taxes in that omitted taxes are levies that should have been billed in prior years but, for some reason, were not actually billed.

The bill blends adjustments for over and under taxation into one tally. Under s.74.41 however, this blending may not result in chargebacks or distributions if DOR either determines that no changes to equalized value are warranted or if an adjustment is made to subsequent equalized values under s.70.57. In addition, s.74.41 only applies when certain dollar thresholds are reached (\$5,000 in aggregate or \$500 or any individual correction). Because of these factors, adding omitted property taxes to the procedures under s. 74.41 may not accomplish what appears to be one of the goals of the bill, specifically, the sharing of omitted property taxes.

We believe that the goal of sharing omitted taxes can be accomplished by other means. Two approaches are discussed below.

One approach would be to repeal those sections in the settlement language that permit taxation districts to retain all collections of omitted property taxes. Thus, in the bill, instead of amending s. 74.23 (1) (a) 4., s. 74.25 (1) (a) 4., and s. 74.30 (1) (d), these sections could be repealed. While this approach would require omitted property taxes that have been collected to be dispersed through the existing settlement process, it simplifies the methodology by sharing the omitted taxes based on current year tax rates, not the tax rates in effect for the years the taxes were omitted.

Another approach would be to create a new statute that requires taxation districts to share their omitted taxes with their overlying taxation jurisdictions only when certain conditions are met. This section could be based, in part, on appropriate parts of s. 74.41. For example, annually, by October 1, a taxation district that has collected more than some amount (perhaps \$1,000 or \$5,000) of omitted taxes must submit to DOR, on a form prescribed by DOR, a listing of all omitted property taxes collected that calendar year. DOR would then determine the amount due to the overlying taxation jurisdictions. By November 15, DOR would notify the taxation district of the amounts it must pay to the overlying taxation jurisdictions. The taxation district would be required to pay the amounts by the following February 15.

The first approach would require some reprogramming regarding the property tax settlement process for DOR, counties, and those municipalities which permit taxes to be paid in 3 or more installments. The second approach would require the same changes, plus a new process in DOR to fulfill the processes regarding the new reporting form.

If the bill's current approach to dispersing omitted taxes is retained, DOR recommends that omitted taxes be explicitly included in s.74.41(4)(b)'s references to taxes to be shared.

If you have any questions regarding this technical memorandum, please contact Daniel Huegel at 266-5705.

cc: Representative Kim Hixson